

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ELSON CASIANO,

Plaintiff

v.

**NANCY A. BERRYHILL,
Acting Commissioner of Social
Security**

Defendant¹

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No. 3:16cv2336

(Judge Munley)

(Magistrate Judge Carlson)

ORDER

AND NOW, to wit, this 20th day of February 2018, we have before us for disposition Magistrate Judge Martin C. Carlson's report and recommendation (Doc. 17), which proposes that plaintiff's request for a new administrative determination in her social security appeal be granted, and the Commissioner of Social Security's final decision denying his application for benefits be vacated.

The defendant waives her opportunity to object to Magistrate Judge Carlson's report and recommendation. (Doc. 18). Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983

¹ Carolyn Colvin was the Acting Commissioner of Social Security at the time plaintiff filed this case. Thus she was the originally named defendant. Since then, Nancy A. Berryhill has assumed the Acting Commissioner position. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and 42 U.S.C. § 405(g), Berryhill is automatically substituted as the named defendant.

Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

1) The magistrate judge's report and recommendation (Doc. 17) is **ADOPTED**;

2) Plaintiff's appeal is **GRANTED** and the Commissioner of Social Security's decision denying plaintiff Social Security disability insurance and supplemental security income benefits is **VACATED**;

3) The Clerk of Court shall enter judgment in favor of Plaintiff Elson Casiano and against the Commissioner of Social Security; and

4) The Clerk of Court is further directed to **REMAND** this case to the Commissioner of Social Security to conduct a new administrative hearing pursuant to sentence four of 42 U.S.C. § 405(g).

BY THE COURT:

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court